

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO TELECOMMUNICATIONS.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Chapter 269, Hawaii Revised Statutes, is  
2 amended by adding a new section to be appropriately designated  
3 and to read as follows:

4       "§269-     Public utility; basic exchange service;  
5 exemption; consumer complaints. (a) Except for any  
6 requirements under federal law and sections 269-7 and 269-16.9,  
7 no public utility providing basic exchange service to every  
8 county in the State or any affiliate or parent of such public  
9 utility shall be subject to the regulatory requirements of this  
10 chapter or the jurisdiction of the public utilities commission  
11 or the consumer advocate. All rules, regulations, decisions,  
12 orders, and other regulatory provisions, except federal  
13 requirements, relating to the regulation of public utilities  
14 providing basic exchange service to every county in the State as  
15 public utilities pursuant to this chapter may be invalid  
16 beginning on the effective date of this Act at the discretion of



1 the public utility providing basic exchange service to every  
2 county in the State.

3 (b) Consumer complaints relating to the basic exchange  
4 service shall be referred to the office of consumer protection  
5 within the department of commerce and consumer affairs."

6 SECTION 2. Section 269-8.5, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 "[+]§269-8.5[+] Annual financial reports. All annual  
9 financial reports required to be filed with the commission by  
10 public utilities shall include a certification that such report  
11 conforms with the applicable uniform system of accounts adopted  
12 by the commission. Notwithstanding any law to the contrary, a  
13 public utility providing basic exchange service to every county  
14 in the State and whose stock or that of its parent is directly  
15 or indirectly publicly traded, shall not be required to file any  
16 financial reports with the commission."

17 SECTION 3. Section 269-16.85, Hawaii Revised Statutes, is  
18 amended by amending subsection (a) to read as follows:

19 "(a) Notwithstanding section 269-16.9 or any other law to  
20 the contrary, the public utilities commission shall treat retail  
21 intrastate telecommunications services, under the commission's



1 classification of services relating to costs, rates, and  
2 pricing, as fully competitive and apply all commission rules in  
3 accordance with that designation. In addition, a  
4 telecommunications carrier shall not be required to obtain  
5 approval or provide any cost support or other information to  
6 establish or otherwise modify in any manner its rates, fares,  
7 and charges, or to bundle any service offerings into a single or  
8 combined price package [~~provided that a telecommunications~~  
9 ~~carrier, except upon receiving the approval of the commission,~~  
10 ~~shall not charge a higher rate for any retail telecommunications~~  
11 ~~basic exchange service than the rate for the same service~~  
12 ~~included in the telecommunications carrier's filed tariff. All~~  
13 ~~rates, fares, charges, and bundled service offerings shall be~~  
14 ~~filed with the public utilities commission for information~~  
15 ~~purposes only]."~~

16 SECTION 4. Section 269-17, Hawaii Revised Statutes, is  
17 amended to read as follows:

18 "§269-17 Issuance of securities. [A] (a) Except as  
19 provided in subsection (c), a public utility corporation may, on  
20 securing the prior approval of the public utilities commission,  
21 and not otherwise, issue stocks and stock certificates, bonds,



1 notes, and other evidences of indebtedness, payable at periods  
2 of more than twelve months after the date thereof, for the  
3 following purposes and no other, namely: for the acquisition of  
4 property or for the construction, completion, extension, or  
5 improvement of or addition to its facilities or service, or for  
6 the discharge or lawful refunding of its obligations or for the  
7 reimbursement of moneys actually expended from income or from  
8 any other moneys in its treasury not secured by or obtained from  
9 the issue of its stocks or stock certificates, or bonds, notes,  
10 or other evidences of indebtedness, for any of the aforesaid  
11 purposes except maintenance of service, replacements, and  
12 substitutions not constituting capital expenditure in cases  
13 where the corporation has kept its accounts for such  
14 expenditures in such manner as to enable the commission to  
15 ascertain the amount of moneys so expended and the purposes for  
16 which the expenditures were made, and the sources of the funds  
17 in its treasury applied to the expenditures. As used herein,  
18 "property" and "facilities", mean property and facilities used  
19 in all operations of a public utility corporation whether or not  
20 included in its public utility operations or rate base. A  
21 public utility corporation may not issue securities to acquire



1 property or to construct, complete, extend or improve or add to  
2 its facilities or service if the commission determines that the  
3 proposed purpose will have a material adverse effect on its  
4 public utility operations.

5 (b) All stock and every stock certificate, and every bond,  
6 note, or other evidence of indebtedness of a public utility  
7 corporation not payable within twelve months, issued without an  
8 order of the commission authorizing the same, then in effect,  
9 shall be void.

10 (c) Any public utility providing basic exchange service to  
11 every county in the State shall be exempt from this section and  
12 may, without securing approval of the public utilities  
13 commission, issue stocks and stock certificates, bonds, notes,  
14 and other evidences of indebtedness payable at periods of more  
15 than twelve months after the date thereof, for any purpose."

16 SECTION 5. Section 269-17.5, Hawaii Revised Statutes, is  
17 amended by amending subsection (c) to read as follows:

18 "(c) No more than twenty-five per cent of the issued and  
19 outstanding voting stock of a corporation organized under the  
20 laws of the State and who owns, controls, operates, or manages  
21 any plant or equipment, or any part thereof, as a public utility



1 within the definition set forth in section 269-1 shall be held,  
2 whether directly or indirectly, by any single foreign  
3 corporation or any single nonresident alien, or held by any  
4 person, unless prior written approval is obtained from the  
5 public utilities commission, or unless a transaction is exempt.

6 An exempt transaction is:

7 (1) Any purchase or sale by an underwriter; [~~or~~]

8 (2) Any transaction involving a public utility providing  
9 basic exchange service to every county in the State;

10 or

11 [~~(2)~~] (3) A transaction to acquire shares of a corporation  
12 with less than one hundred shareholders and less than  
13 \$1,000,000 in assets.

14 Every assignment, transfer, contract, or agreement for  
15 assignment or transfer of any shares in violation of this  
16 section shall be void and of no effect; and no such transfer  
17 shall be made on the books of the corporation. Nothing herein  
18 shall be construed to make illegal the holding of stock lawfully  
19 held, directly or indirectly, prior to June 4, 1977."

20 SECTION 6. Section 269-19, Hawaii Revised Statutes, is  
21 amended to read as follows:



1       "§269-19 Merger and consolidation of public utilities.

2       (a) Except as provided in [~~subsection~~] subsections (b) [~~7~~] and  
3       (c), no public utility shall sell, lease, assign, mortgage, or  
4       otherwise dispose of or encumber the whole or any part of its  
5       road, line, plant, system, or other property necessary or useful  
6       in the performance of its duties to the public, or any franchise  
7       or permit, or any right thereunder, nor by any means, directly  
8       or indirectly, merge or consolidate with any other public  
9       utility without first having secured from the public utilities  
10      commission an order authorizing it so to do. Every such sale,  
11      lease, assignment, mortgage, disposition, encumbrance, merger,  
12      or consolidation, made other than in accordance with the order  
13      of the commission shall be void[~~7~~], except as provided in  
14      subsections (b) and (c).

15      (b) A public utility, under circumstances that it deems  
16      exigent and in its judgment require a response that rapidly  
17      restores one of its customers to normal, or near normal,  
18      operating status in order to prevent serious disruption of  
19      essential public services, or avoid serious risk to public  
20      safety, or to mitigate severe economic losses to that customer,  
21      may transfer, assign, or otherwise dispose of its property



1 without prior approval from the public utilities commission as  
2 required in subsection (a); provided that in so doing:

3 (1) The public utility does not unduly hinder or degrade  
4 the public utility's operation with respect to its  
5 services or other customers;

6 (2) The public utility is duly compensated for its  
7 property; and

8 (3) The public utility reports in detail to the public  
9 utilities commission within thirty days of any such  
10 action unless otherwise approved by the public  
11 utilities commission for good cause shown.

12 For purposes of this subsection, "property" does not  
13 include real property.

14 (c) Notwithstanding any law to the contrary, a public  
15 utility providing basic exchange service to every county in the  
16 State may sell, lease, assign, or otherwise dispose of or  
17 encumber the whole or any part of its road, line, plant, system,  
18 or other property necessary or useful in the performance of its  
19 duties to the public, or any franchise or permit, or any right  
20 thereunder, by any means, directly or indirectly, merge or  
21 consolidate with any other public utility; provided that the





1 public utility shall notify the public utilities commission of  
2 such transaction within thirty days thereof."

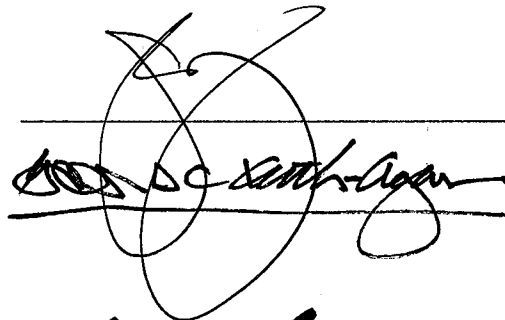
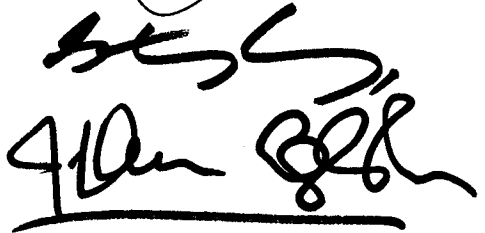
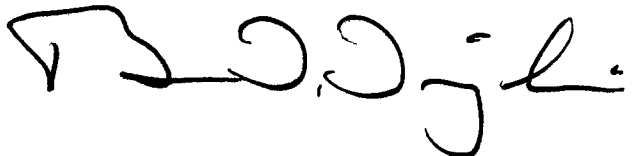
3 SECTION 7. Section 269-19.5, Hawaii Revised Statutes, is  
4 amended by amending subsection (h) to read as follows:

5 "(h) Transactions between affiliated Hawaii based  
6 utilities, and any transactions by public utilities providing  
7 basic exchange service to every county in the State, shall be  
8 exempt from the provisions of this section."

9 SECTION 8. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 9. This Act shall take effect upon its approval.

12 INTRODUCED BY:

  
  
Clarena K. Hishikawa  




**Report Title:**

Telecommunications; Basic Exchange Service Exemptions; Pricing Flexibility; Sale, Lease, Encumbrance of Assets; Financing; Affiliate Transactions; Issuance of Stock; Financial Reports

**Description:**

Except for requirements under federal law and section 269-7 and 269-16.9, exempts a public utility providing basic exchange service to every county in the State or any affiliate or parent of such public utility from chapter 269 and the jurisdiction of the PUC and consumer advocate. Exempts a public utility providing basic exchange service to every county in the State from financial report requirements. Repeals language requiring approval of the PUC prior to a telecommunications carrier charging a higher rate for basic exchange service than the rate included in the carrier's filed tariff. Allows any public utility providing basic exchange service to every county in the State to issue stocks and stock certificates, bonds, notes, and other evidences of indebtedness payable at periods of more than twelve months after the date thereof, for any purpose, without securing approval of the PUC. Exempts telecommunications carriers from utility rate regulation and ratemaking procedures and provisions relating to valuations, regulatory flexibility for effectively competitive services, cross-subsidies, and access to advanced services. Allows any public utility providing basic exchange service to every county in the State to sell, lease, assign, dispose of, or encumber its property by any means without approval of the PUC, provided that the utility notifies the PUC in writing of such a transaction within 30 days. Exempts any transactions by public utilities providing basic exchange service to every county in the State from provisions regulating relations with an affiliated interest and contracts with affiliates filed and subject to PUC action and issuance of voting stock restrictions.

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